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Please contact the author of this article if you wish to receive a pre-publication draft of the article, "When Jurisdictions Collide: Determining Judicial Roles When Bankruptcy Court and Insurance Receivership Court Responsibilities Overlap."

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When Jurisdictions Collide: Determining Judicial Roles When Bankruptcy Court and Insurance Receivership Court Responsibilities Overlap

When disputes arise between an insolvent insurance company that has been placed under the supervision of a state receivership court and a company with debts that has sought protection under the supervision of a federal bankruptcy court, which court will decide disputes between the insurer and the debtor? When an insolvent insurer in a state receivership and its holding company in bankruptcy both have claims to the same property, again, which court will decide who owns the property?

Answers have begun to emerge from recent cases, and it has become clear that in-depth understanding and experience both in federal bankruptcy law and state insurance insolvency law is necessary to derive the answers. Where a debtor in bankruptcy has a claim against an insolvent insurer in receivership, for example, it may be necessary to invoke both the abstention provisions of federal bankruptcy law and state case law concerning the Uniform Insurers Liquidation Act to determine whether a bankruptcy court is required to defer, or may be persuaded to defer, to a state insurance receivership court for resolution of the issues.

While the courts have begun to address these issues, the case law is far from settled. To provide a thorough understanding of the case law as it has evolved to this point, Foley Partner Wm. Carlisle Herbert, a member of the firm's dedicated Insurance Industry Team, has authored, "When Jurisdictions Collide: Determining Judicial Roles When Bankruptcy Court and Insurance Receivership Court Responsibilities Overlap." The article is slated for publication in the Fall 2007 issue of the American Bar Association's *Tort Trial & Insurance Practice Law Journal* (Vol. 43, No. 1).

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It is apparent from the current cases that courts are not being fully advised of all the potentially applicable authorities on this subject, possibly because lawyers with bankruptcy expertise and state insurance insolvency expertise have not worked in tandem when these issues have been presented. Foley has decades of experience both in federal bankruptcy law and state insurance receivership law, and the firm regularly establishes cross-disciplinary teams necessary to address issues that bridge differing fields of law.